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11 UNITED STATES DISTRICT COURT
12 DISTRICT OF NEVADA

13 BRIAN SCIARA,

14 Plaintiff,

15 v.

16 STEPHEN CAMPBELL,

17 Defendant.

18 AND ALL RELATED CLAIMS
19
20
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Lead/Base Case No.: 2:18-cv-01700-DJA

Consolidated Case No.: 2:21-cv-00309-

JAD-NJK

**RENEWED MOTION TO
WITHDRAW AS COUNSEL OF
RECORD FOR PLAINTIFFS
CAPFUND ENTERPRISES, LLC,
D/B/A CAPFUND FINANCIAL,
FUNDED, LLC, AND BRIAN SCIARA**

22 COME NOW ANTHONY P. SGRO, ESQ. JENNIFER WILLIS ARLEDGE, ESQ., of
23 SGRO & ROGER respectfully move this Court for an Order permitting the law firm of Sgro &
24 Roger and all of its attorneys who have made appearances on this matter, to withdraw as
25 counsel for Plaintiffs Capfund Enterprises, LLC, d/b/a CapFund Financial; Funded, LLC; and
26 Brian Sciara under Nevada Supreme Court Rule 46, Local Rule IA 11-6 and Nevada Rule of
27 Professional Conduct 1.16.
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1 This motion is based upon the following Memorandum of Points and Authorities, the
2 pleadings and papers on file here in, the Affidavit of Attorney Jennifer Willis Arledge, ESQ.,
3 Esq., attached hereto and any oral arguments the Court may entertain at a hearing on the matter.

4 December 20, 2021

5 **SGRO & ROGER**

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Funded, LLC, and Brian Sciara

MEMORANDUM OF POINTS AND AUTHORITIES

I. STATEMENT OF FACTS

SGRO & ROGER appeared on behalf of Plaintiffs on February 3, 2021, in *Plaintiff's Opposition to Defendant's Motion for Order to Show Cause Why Plaintiff Should Not Be Held in Contempt of Court for Violating Protective Order* [ECF 73]. SGRO & ROGER was engaged to prosecute this litigation by Capfund Enterprises, LLC., and Brian Sciara in his individual capacity and in his capacity as the representative of CapFund. SGRO & ROGER was also retained to file and prosecute state tort, contract, and statutory claims in *Brian Sciara, et al., vs. Micamp Solutions, LLC, et al.*, now proceeding in the Eighth Judicial District Court of the State of Nevada as case no. A-20-824100-B.

On or about November 24, 2021, Mr. Sciara terminated the services of SGRO & ROGER as counsel of record on the State matter. While Mr. Sciara and SGRO & ROGER attempted for a time to resolve their disagreements to allow SGRO & ROGER to remain on this case, there has been a complete breakdown of communication between SGRO & ROGER and Mr. Sciara. SGRO & ROGER and Mr. Sciara are suffering from a fundamental disagreement and the attorney-client relationship is now irretrievably broken such that their interests are now adversarial.

This lawsuit will not be disrupted by Sgro & Roger's withdrawal, as the parties previously stipulated to extend all discovery deadlines.

II. LEGAL ARGUMENT

Nevada Supreme Court Rule 46 allows an attorney to withdrawal from a case "at any time" before a final disposition "[u]pon the order of the court of judge thereof on the application of the attorney or the client." Rule 1.16(b)(5) of the Nevada Rules of Professional Conduct allows an attorney to withdraw from representing a client if "[t]he client fails substantially to fulfill an obligation to the lawyer regarding the lawyer's services and has been given a reasonable warning that the lawyer will withdraw unless the obligation is fulfilled." Under Rule 1.16(b)(4) of the Nevada Rules of Professional Conduct an attorney may withdraw from

1 representing a client if the client “insists upon taking action that the lawyer considers to be
2 repugnant or with which the lawyer has a fundamental disagreement.”

3 The attorney-client relationship between SGRO & ROGER and Mr. Sciara has now
4 broken down such that their interests are now adversarial. Among other things, an attorney
5 client relationship is a contractual relationship and all the duties of the relationship flow from
6 the contract. *See Stalk v. Mushkin*, 125 Nev. 21, 29, 199 P.3d 838, 843 (2009). Here, Mr. Sciara
7 dismissed SGRO & ROGER as counsel of record on the state matter. While Mr. Sciara and
8 SGRO & ROGER attempted for a time to resolve their disagreements to allow SGRO &
9 ROGER to remain on this case, there has been a complete breakdown of communication
10 between SGRO & ROGER and Mr. Sciara. SGRO & ROGER and Mr. Sciara are suffering from
11 a fundamental disagreement and the attorney-client relationship is now irretrievably broken
12 such that their interests are now adversarial. Mr. Sciara’s actions have thus neutered the
13 confidential and fiduciary nature of the attorney client relationship and any further
14 representation is impossible.

15 Under Local Rule IA 11-6(d), attorneys are not permitted to withdrawal “if it will result
16 in delay of discovery, the trial, or any hearing in the case.” As discussed above, the parties
17 previously stipulated to extend discovery and there are no upcoming hearings in the matter. No
18 party will be prejudiced or otherwise affected by Sgro & Roger’s withdrawal as it is anticipated
19 that Mr. Sciara’s new counsel in the State Court matter will appear in this case. Mr. Sciara is
20 due to complete a forensic evaluation of his laptop and iPhone, as performed by HOLO
21 discovery pursuant to the Court’s Orders of July 9, 2021 [ECF 124] and November 23, 2021,
22 [ECF 141]. SGRO & ROGER are unable to perform the review on behalf of Mr. Sciara and it
23 will be incumbent upon any new counsel Mr. Sciara retains to perform the review. While Mr.
24 Sciara’s new counsel will have to evaluate the time necessary for his or her review and inform
25 the Court an extension of the January 7, 2021, date is needed; SGRO & ROGER represent to
26 the Court that an extension of that deadline is wise and should be Ordered. SGRO & ROGER
27 respectfully request that the Court not order SGRO & ROGER to complete the review and that
28 the allow the immediate withdrawal of our firm. Undersigned appreciates that this is an


extraordinary request, but Mr. Sciara has taken the extraordinary step of having three credit card payments to SGRO & ROGER reversed to the tune of \$37,000.00. The withdrawal and the extension and other relief requested in this Motion are sought in good faith and not for the purposes of delay, and SGRO & ROGER should not be forced to work for Mr. Sciara for free.

III. CONCLUSION

For the reasons stated above, ANTHONY P. SGRO, ESQ., and JENNIFER WILLIS ARLEDGE, ESQ., of the law firm SGRO & ROGER, request that this Court issue an Order permitting the law firm of SGRO & ROGER, and all of its attorneys who have made appearances on this matter, to withdraw as counsel of record for Plaintiffs CapFund Enterprises, LLC, dba CapFund Financial; Funded, LLC; and Brian Sciara.

December 20, 2021.

SGRO & ROGER


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 Las Vegas, Nevada 89101
*Attorneys for Capfund Enterprises, LLC,
 d/b/a CapFund Financial,
 Funded, LLC, and Brian Sciara*

CERTIFICATE OF SERVICE

Pursuant to Fed. R. Civ. P. 5(b), I hereby certify that on the 20th day of December 2021, I served a true and correct copy of the foregoing **RENEWED MOTION TO WITHDEAWAL AS COUNSEL OF RECORD FOR PLAINTIFFS CAPFUND ENTERPRISES, LLC, D/B/A CAPFUND FINANCIAL, FUNDED, LLC, AND BRIAN SCIARA** as follows:

☒ Filed electronically via the Court's CM/ECF system and notice of filing will be served on all parties by operation of the Court's CM/ECF filing system, and parties may access this filing through the Court's CM/ECF system.

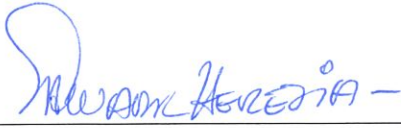
HOLLAND & HART LLP

Bryce K. Kunimoto, Esq. - bkunimoto@hollandhart.com
Robert J. Cassity, Esq. - bcassity@hollandhart.com
Jenapher Lin, Esq. - jlin@hollandhart.com
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Attorneys for Defendant Stephen Campbell

I further certify that I served a true and correct copy of the foregoing **RENEWED MOTION TO WITHDEAWAL AS COUNSEL OF RECORD FOR PLAINTIFFS CAPFUND ENTERPRISES, LLC, D/B/A CAPFUND FINANCIAL, FUNDED, LLC, AND BRIAN SCIARA** by United States Postal Service to the following:

BRIAN SCIARA

712 Pont Chartrain Drive
Las Vegas, Nevada , 89145

BY 
An Employee of Sgro & Roger